

PATENT
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The Examiner states that the present application contains claims directed to the following patentably distinct species of the claimed invention:

- Species A, a method of gas delivery which utilizes an exposure chamber;
- Species B, a method of gas delivery which utilizes a building;
- Species C, a method of gas delivery which utilizes a nasal helmet;
- Species D, a method of gas delivery which utilizes a nasal cannula;
- Species E, a method of gas delivery which utilizes hyperbaric conditions;
- Species F, a method of gas delivery which utilizes a life support system;
- Species G, a method of gas delivery by electrolyzing water using an electrolytic cell;
- Species H, a method of gas delivery wherein the user is placed in a gaseous environment;
- Species I, a method of gas delivery which utilizes a mask;
- Species J, a method of gas delivery which provides an explosion proof environment; and
- Species K, a method of gas delivery wherein utilizing pre-purified gases.

The Examiner states that, currently, no claim is generic.

In response to the requirement for Election of Species mailed October 18, 2002 (Paper No. 8) requiring Applicants to elect among the inventions of Species A to K, Applicants provisionally elects, with traverse, the inventions of Species H, claims 8 to 13, 15 to 22, 24 to 29, 31 to 33, 35 to 50, and 53 to 70.

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Under MPEP 806.04(e), species are always the specifically different embodiments. Under MPEP 806.04(f), "claims to be restricted to different species must be mutually exclusive. The general test as to when claims are restricted, respectively, to different species is the fact that one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed only for the second species and not the first."

Here, claims 8 to 13, 15 to 22, 24 to 29, 31 to 33, 35 to 50, 53 to 70 read on the species H because these claims recite a limitation which under the disclosure is found in the species H.

According to the characteristic of the species H stated by the Examiner, the species H relates to a method of gas delivery wherein the user is placed in a gaseous environment. In the claims 8 to 13, 15 to 22, 24 to 29, 31 to 33, 35 to 50, and 53 to 70, the user is placed in a gaseous environment. With respect to independent claims 8, 33, and 65, these claims have the explicit limitation (i.e., the user is surrounded by a gaseous environment), and their dependent claims 9 to 13, 15 to 22, 24 to 29, 31, 32, 35 to 50, 53 to 63, 66 to 68, and 70 also have the limitation of their independent claims. With respect to claims 64 and 69, these claims also should be read on the species H because the head of the user is positioned in the gaseous environment, that is, gases such as hydrogen and oxygen, or breathable composition in the helmet or chamber.

Therefore, all of the claims 8 to 13, 15 to 22, 24 to 29, 31 to 33, 35 to 50, 53 to 70 have the characteristic of the species H and read thereon.

Traversal is on the grounds that the examination on all of the claims does not place an undue burden on the Examiner.

As stipulated in MPEP §803, if the search can be made without a serious burden, the

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examiner must examine it on the merits. Here, all of 8 to 13, 15 to 22, 24 to 29, 31 to 33, 35 to 50, 53 to 70 are related to the method of providing protection from reactive oxygen species. Even under the Examiner's classification of species, all of the species relate to a method of gas delivery. That is, all the related references will be found in the Examiner's search on the gas delivery method for providing protection from reactive oxygen species. Furthermore, the references found in the search of the species H will generally describe methods of gas delivery. Applicant therefore believes that little additional search and examination is required for the invention of species A to G, and I to K. Furthermore, the Examiner has not alleged any serious burden. In addition, the election of species requirement is made after the first action on the merits. This means the Examiner already searched on the characteristics of the species A to K. Therefore, there will not be a serious burden if the election of species is not required.

Therefore, withdrawal of the requirement of the election of species is respectfully requested.

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In view of the forgoing election, this response is believed to be a complete response to the requirement for election. Should questions remain unresolved, the Examiner is requested to telephone the Applicant's attorney.

Respectfully submitted,



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